

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROCHE DIAGNOSTICS GMBH, *et al.*,

Plaintiffs and Counterclaim
Defendants,

-v-

ENZO BIOCHEM, INC., *et al.*,

Defendants and Counterclaim
Plaintiffs.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10-22-14

No. 04-cv-4046 (RJS)
REVISED SCHEDULING ORDER

RICHARD J. SULLIVAN, District Judge:

The Court hereby adopts the following Revised Scheduling Order for purposes of the parties' remaining patent infringement claims and defenses, Roche's tortious interference and unfair competition claims and Enzo's defenses, and Enzo's remaining breach of contract claims and Roche's defenses (together the "Claims and Defenses").

1. All damages *fact* discovery relating to the Claims and Defenses which has not already been completed shall be completed by **January 30, 2015**.
 - a. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York.
 - b. Any additional fact depositions shall be completed by the close of this fact discovery period.
2. All *expert* discovery and disclosures on all remaining issues, including reports, production of underlying documents, and depositions, shall be completed pursuant to the following deadlines:
 - a. Opening expert reports on issue(s) for which a party bears the burden of proof shall be served within 30 days of the Court's claim construction ruling relating to U.S. Patent Nos. 4,943,523 and 5,082,830 (the "Claim Construction Ruling"), but not earlier than within 30 days of January 30, 2015.
 - b. Rebuttal expert reports shall be served within 60 days of the Claim Construction Ruling, but not earlier than within 60 days of January 30, 2015.
 - c. Expert depositions shall be completed within 90 days of the Claim Construction Ruling, but not earlier than within 90 days of January 30, 2015.

3. All discovery shall be completed no later than 90 days after the Claim Construction Ruling, but not earlier than within 90 days of January 30, 2015.
4. After the issuance of the Claim Construction Ruling, but not earlier than within 90 days of January 30, 2015, the parties will contact the clerk to set a post-discovery conference following the close of expert discovery.
5. If either party contemplates a motion, the post-discovery conference will function as a pre-motion conference. Pre-motion letters are to be submitted in accordance with a schedule set by the Court after it issues the Claim Construction Ruling. Pursuant to Rule 2.A of the Court's Individual Practices, responses to pre-motion letters are to be submitted within three business days from the date of service of the initial pre-motion letter. Pre-motion letters and responses shall be submitted to the chambers' email address at sullivanysdchambers@nysd.uscourts.gov.
6. If neither party contemplates a dispositive motion, the post-discovery conference will function as a pre-trial conference at which a trial date will be set.
7. At a date to be set by the Court, but no earlier than January 30, 2015 and no later than February 13, 2015, the parties shall appear at 9:30 a.m. in Courtroom 905 of the Thurgood Marshall United States District Court for the Southern District of New York, 40 Foley Square, New York, New York. The Court will reserve a conference room in which the parties and counsel shall discuss settlement for no less than three hours.
 - a. The parties shall file a joint letter, no later than October 31, 2014, indicating whether they would like Magistrate Judge Gorenstein to facilitate the above-referenced settlement discussion. This letter shall also estimate the number of attendees that will be present at this discussion.

SO ORDERED.

DATED: October 21, 2014
 New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE